

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Jess R. Burdine, et al.,

Case No. 3:09CV1026

Plaintiff

v.

ORDER

Franklin W. Kaiser, et al.,

Defendant

This case arises from the death of an inmate in the Sandusky County, Ohio, jail, following his arrest by officers of the Fremont, Ohio, Police Department.

Pending is motion by the Fremont defendants for the undersigned to determine reasonable expert fees for deposition. (Doc. 133).

Plaintiffs have retained three expert witnesses. Those witnesses have told plaintiffs' counsel that their fees for preparing to be and being deposed are:

- Michael M. Baden, M.D.: \$7,500/day deposition or \$750/hour
- W. Ken Katsaris: \$2,000 for a five hour minimum or \$400/hour.
- Wayne J. Graves: \$330/hour, minimum three hours;
- Team Audio: \$300/hour

The fees are to varying degrees, with the exception of Team Audio, excessive and, with regard to Dr. Baden, exorbitant.

The fees in excess of \$300/hour will be adjusted to no more than that amount for preparation and testimony (unless a lesser fee has been negotiated).

To do otherwise would place due process in the hands of persons who are willing to be witnesses for one side, but who otherwise would make it impossible for the other side to prepare adequately to respond to their testimony. By agreeing in the first instance to be retained for one side in litigation, an expert must expect that the other side will want to depose him or her.

Rather than seeking to mulct the other party – in this instance, governmental entities, but often private individuals – any retained expert should not expect to be able to charge an equivalent fee for fulfilling his or her duty to other litigants and the court.

Based on my experience in other cases with a broad range of experts, I conclude that \$300/hour is ample compensation for any expert for preparing for and being deposed by a party other than the party which retained the expert.

An out of town expert should not and will not be permitted to charge “big city” rates for doing his job *vis-a-vis* opposing parties in our community.

If the resolution reached herein is not acceptable to any of the experts, their reports and testimony will not be admitted further in these proceedings.

It is, therefore,

ORDERED THAT any person appearing as an expert in these proceedings shall neither seek nor accept payment in excess of \$300/hour for preparing for and appearing at a deposition convened by a party or parties other than that which retained him or her.

So ordered.

s/James G. Carr  
United States District Judge